

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

KENNETH L. HOLLAND,)	
)	
Plaintiff,)	
)	
v.)	C. A. No. 05-464-SLR
)	
STANLEY TAYLOR, et al.,)	
)	
Defendants.)	

ADAM J. BRAMBLE,)
)
Defendant,)
Counter-claim plaintiff,)
)
v.)
)
KENNETH L. HOLLAND)
)
Plaintiff,)
Counter-claim defendant.)

**STATE DEFENDANTS' RESPONSE TO PLAINTIFF'S
MOTION TO COMPEL**

State Defendants, by and through their undersigned counsel, hereby file their response to Plaintiff's Motion to Compel. In support of their position, State Defendants represent as follows:

1. Kenneth Holland ("Plaintiff"), an inmate presently incarcerated at the Delaware Correction Center ("DCC") in Smyrna, Delaware, is a *pro se* litigant in the above-captioned action.
2. On or about July 5, 2005, Plaintiff filed a complaint pursuant to 42 U.S.C. §1983 with leave to proceed *in forma pauperis*. (D.I. #2) In his complaint, Plaintiff

alleges Fourteenth Amendment Due Process constitutional violations.

3. The procedural history of this case is rather long and unnecessary to recite in order to respond to Plaintiff's motion.

4. On or about April 28, 2008, Plaintiff filed a *Motion to Compel* regarding his Third Set of Interrogatories discovery request directed to Defendants. [D.I.#87]

5. "If a party fails to make a disclosure required by Rule 26(a), any other party may move to compel disclosure and for appropriate sanctions. ***The motion must include a certification that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action.***" Fed. R. Civ. P. 37(a)(2)(A). The Plaintiff's motion did not include a certification stating he acted in good faith and conferred or attempted to confer with the parties before filing his motion as required by the Federal Rules. Moreover, even if the Plaintiff thinks the Defendants are tardy in their response, he nevertheless made no attempt to contact Defendants' counsel by any means before filing his motion.

WHEREFORE, Defendants respectfully request that this Honorable Court deny the Plaintiff's Motion to Compel and enter an Order in the form attached hereto.

**DEPARTMENT OF JUSTICE
STATE OF DELAWARE**

/s/ Catherine Damavandi
Catherine Damavandi (ID # 3823)
Deputy Attorney General
Delaware Department of Justice
Carvel State Office Building
820 N. French Street, 6th Floor
Wilmington, DE 19801
(302) 577-8400
Attorney for Defendants

Dated: April 30, 2008

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2008, I electronically filed *Defendants'*
Response to Plaintiff's Motion to Compel with the Clerk of Court using CM/ECF. I
hereby certify that on, April 30, 2008, I have mailed by United States Postal Service, the
document to the following non-registered party:

Kenneth Holland, Inmate
SBI#164800
Delaware Correctional Institution
1181 Paddock Road
Smyrna, DE 19977

STATE OF DELAWARE
DEPARTMENT OF JUSTICE

/s/ Catherine Damavandi
Catherine Damavandi (ID # 3823)
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